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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of :

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Refugio and Taft, Texas)

MM Docket No. 99-256
RM-9527

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
Mass Media Bureau

COMMENTS OF
PACIFIC BROADCASTING OF MISSOURI, LLC

Pacific Broadcasting of Missouri, LLC ("Pacific"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, hereby submits its Comments in the above-referenced rulemaking proceeding in response to the Commission's Notice of Proposed Rulemaking ("NPRM"), released on July 16, 1999.

Pacific is the proponent of the substitution of Channel 293C2 for Channel 291C3 at Refugio, Texas, and the reallocation of Channel 293C2 from Refugio to Taft, Texas. In addition, Pacific requests that the Commission modify the license of Station KTKY(FM), Refugio, to specify operation on Channel 293C2 at Taft. To prevent the removal of the sole local aural service at Refugio, Pacific also proposes the allotment of Channel 291A at Refugio as a replacement for Channel 291C3. Pacific hereby requests that the Commission incorporate by reference its Petition for Rulemaking to: substitute Channel 293C2 for Channel 291C3 and reallocate Channel 293C2 to Taft, Texas as that community's first local aural service; and allot Channel 291A to Refugio as a replacement channel.¹

Should the Commission substitute Channel 293C2 for Channel 291C3 at Refugio, Texas and reallocate Channel 293C2 to Taft, Texas, Pacific hereby restates its intention to file an application to modify station KTKY(FM) accordingly. Moreover, Pacific states its further intention to apply for Channel 291A at Refugio if allotted and, if authorized, to promptly build and commence operations on a new station at Refugio, Texas.

In the NPRM, the Commission requested that Pacific provide an updated analysis and determine the number of full-time reception services available to people that will no longer

¹ Since the filing of Pacific's Petition for Rulemaking, the Commission has allotted Channel 263A to Refugio, Texas in MM Docket No. 98-165. See 14 FCC Rcd 1322 (1999). The Commission has not yet established a date for the filing of applications for Channel 263A at Refugio. Accordingly, service on that channel has not commenced.

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receive service from Station KTKY(FM) following the relocation of that station to Taft and absent the allotment of either Channel 291A or 263A at Refugio (the "loss area"). See, NPRM at Para. 4. The Commission further requested that Pacific identify the number of people that would receive no replacement service following the reallocation of Channel 293C2 to Taft and the allotment of Channel 263A and/or Channel 291A at Refugio and the number of full-time reception services available to such people. Id.

The entire loss area will continue to receive at least six full-time reception services following the relocation of station KTKY(FM) to Taft. As noted in the Pacific's Petition for Rulemaking and the NPRM, there are approximately 1000 people that presently receive service from Station KTKY(FM) at Refugio that will not receive service from the station operating on Channel 293C2 at Taft (although most would receive service from a station on either Channel 263A or 291A at Refugio). See, Petition at 10-11; NPRM at Para. 4. As shown in the attached map, the loss area is actually two areas, one to the east of Refugio and one to the southwest of Refugio. Nevertheless, these loss areas are, and will continue to be, well-served by full-time reception services. Currently, and following the relocation of KTKY(FM) to Taft, both loss areas will continue to receive full-time reception service from Stations KNCN-FM and KOUL-FM, licensed to Sinton, Texas. Moreover, the southwestern loss area is, and will continue to be, served by KZFM(FM), KRYS(FM), KLTG(FM) and KMXR(FM), all licensed to Corpus Christi, Texas, KFTX(FM), licensed to Kingsville, KSAB(FM) licensed to Robstown, Texas², and KTKO(FM) and KYTX, licensed to Beeville, Texas, following relocation of KTKY(FM) to Taft. The eastern loss area is, and will continue to be, served by KVIC(FM), KTXN(FM), KIXS(FM), licensed to Victoria, Texas, and KPLV(FM), licensed to Port Lavaca, following relocation of KTKY(FM) to Taft. Thus, the eastern loss area will continue to be served by at least six commercial FM stations and the southwest loss area by at least ten commercial FM stations.

There are approximately 197 people located in the combined loss areas to the east and southwest depicted on the attached map that will receive no replacement service following the relocation of KTKY(FM) to Taft and the allocation and commencement of service on either Channel 263A or 291A at Refugio.³ However, depending upon where they are located in the loss areas, all 197 people will receive full-time reception services from at least six of the stations listed above. By contrast, there are more than 280,000 people that will receive new service from KTKY(FM) following its relocation to Taft.

Pacific remains committed to maintaining local service in Refugio and will apply for and, if authorized, construct a new station on Channel 291A or Channel 263A. However, there are

² Station KLUX(FM), a non-commercial station, is also licensed to Robstown and will serve the southwestern loss area.

³ Pacific based the calculation of this population figure on census block data made available from the Texas State Data Center, at Texas A&M University in College Station, Texas. The loss area covers portions of several different census blocks, all of which are rural in nature. To calculate the population loss within these blocks an approximation of the geographical area of loss was made, and from that figure the population loss was calculated by ascribing a like percentage of population within each census block to the geographical loss area within that block. The single exception to this methodology was in calculating the population loss in Refugio County. In this case, two towns within the county, Refugio and Woodsboro, will continue to receive a 60 dBu signal from KTKY. Accordingly, the 1990 census population figures for those towns were subtracted from the total county population and the resulting figure was used to describe the population loss in Refugio County.

several public interest factors that Pacific requests the Commission consider in deciding whether to allow modification of KTKY(FM) to operate on Channel 293C2 at Taft prior to the commencement of service on either Channel 263A or 291A at Refugio.

First, as detailed in its Petition and noted by the Commission in the NPRM, reallocation of Channel 293C2 to Taft will result in a preferential arrangement of the allotments, because it will provide a first local service to a community of greater population (Taft population of 5,234 vs. Refugio population of 3,158). Second, the reallocation of Channel 293C2 to Taft will result in a dramatic increase in the number of people receiving service from KTKY(FM), from 72,810 to 354,128. See Petition at p. 10; NPRM at para. 4. Third, as detailed above, Refugio will continue to be well-served by full-time FM services following the relocation of KTKY(FM) to Taft, even before service commences on Channel 263A or 291A at Refugio. In addition to the stations listed above, KTKY(FM) will continue to provide service with a 60 dBu contour over Refugio following its move to Taft. Further, there are fewer than 200 people that will not receive a replacement service for KTKY(FM) following the reallocation to Taft, after commencement of service on Channel 263A or 291A. All of these people will receive at least six full-time reception services.

Pacific is cognizant of the Commission's concern about the absence of local service originating from Refugio following relocation of Channel 293C2 to Taft and has requested the allotment of Channel 291A to Refugio as a replacement local service. In addition, since the filing of its Petition for Rulemaking, the Commission has allotted Channel 263A to Refugio. See Report and Order, 14 FCC Rcd 1322 (1999). However, the initiation of service on either Channel 263A or, if allotted, Channel 291A at Refugio may be delayed for years if the frequencies are required to be awarded by way of auction. See Closed Broadcast Auctions: Notice of Filing Requirements for Auction of AM, FM, TV, LPTV, and FM and TV Translator Construction Permits, DA No. 99-1346, released July 9, 1999 ("Broadcast Auction Notice")⁴. Although the Commission's auction procedure is intended to expedite the provision of service, there remains the possibility of delay if the procedures for awarding broadcast permits and/or the award of a channel are challenged and taken through the Commission's appeals process.

As stated above, the public interest strongly favors the immediate institution of first local service at Taft and the improvements at KTKY(FM) that would bring new service to more than 280,000 people. Rather than risk potential delay to achieving these public interest goals, Pacific requests that the Commission remove the condition that the relocation of KTKY(FM) to Taft occur simultaneously with the commencement of service on Channel 263A or, if allotted, Channel 291A at Refugio.

Pacific is in no way backing away from its commitment to provide local service at Refugio. Rather, Pacific requests that the Commission weigh the totality of the circumstances in conditioning the grant of authority to operate station KTKY(FM) on Channel 293C2 at Taft on the activation of service at Refugio. The Commission may also take notice with respect to

⁴ The allotment of Channel 291A to Refugio is technically contingent upon the substitution of Channel 293C2 for Channel 291C3 and the reallocation of Channel 293C2 to Taft as proposed in Pacific's Petition and the NPRM. Because KTKY(FM) is an operating station, and any auction of Channel 291A would be conditioned upon completion of KTKY's relocation to Taft, it is conceivable that there may be further delays in scheduling the auction to accommodate these external factors.

service at Refugio that there is interest by at least one other party, WAB Broadcasting, to provide service there. Moreover, Pacific stands ready and willing to seek authority for and, if awarded the frequency, commence service at Refugio.

For these reasons, Pacific respectfully requests the Commission issue a Report and Order to amend the Table of Allotments to SUBSTITUTE Channel 293C2 for Channel 291C3, ALLOT Channel 293C2 to Taft, Texas, MODIFY the license of Station KTKY(FM) to specify operations on Channel 293C2 at Taft, and ALLOT Channel 291A to Refugio, Texas. Such actions would serve the public interest by providing Taft with a first local service. Combined with the allotment of Channel 291A to Refugio, such allotment would result in a preferential arrangement of the allotments and more effective use of the FM spectrum in furtherance of the Commission's public interest goals and the goals of Section 307(b) of the Communications Act.

Respectfully submitted,

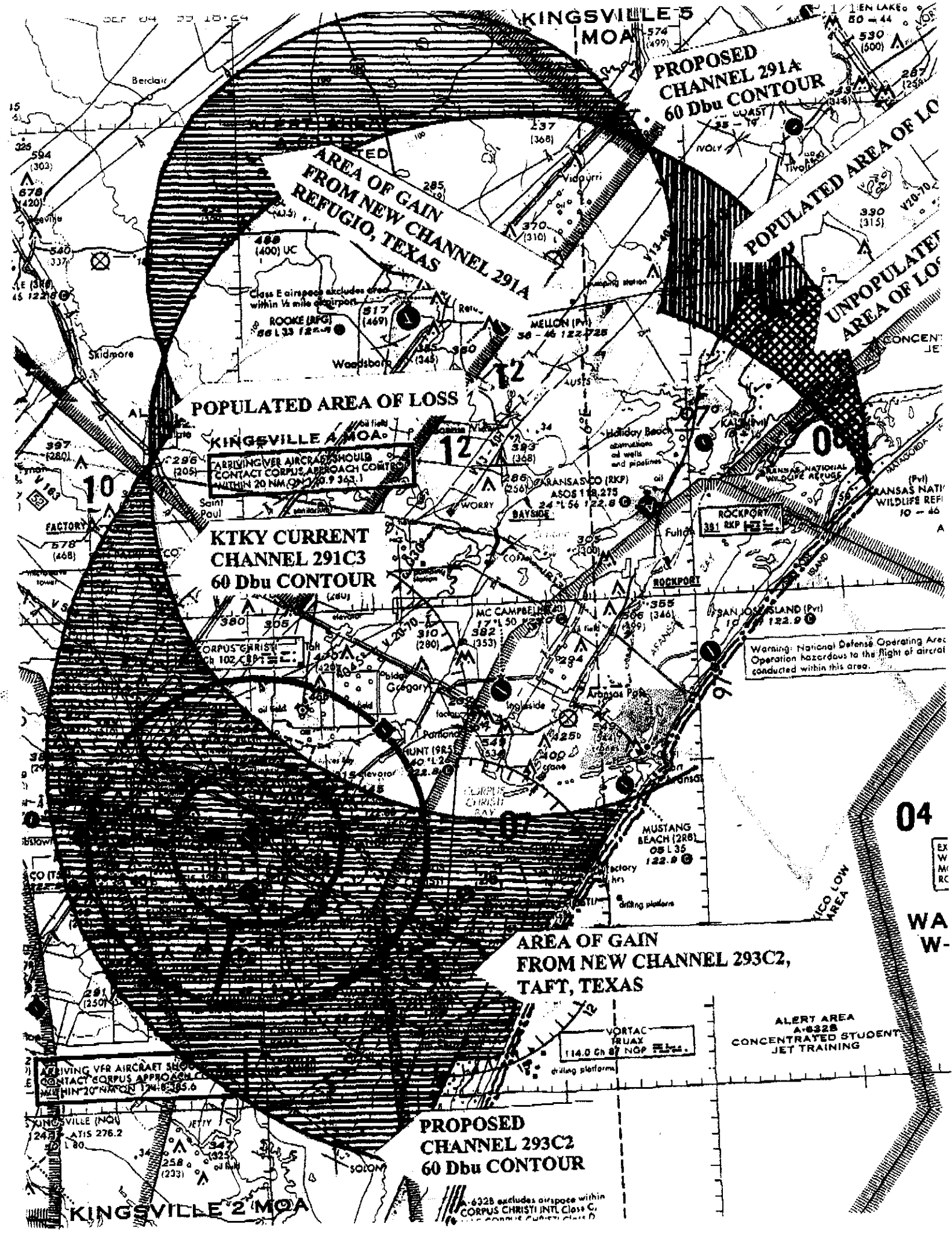
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September 7, 1999



AREA OF GAIN FROM NEW CHANNEL 291A
REFUGIO, TEXAS

PROPOSED CHANNEL 291A
60 Dbu CONTOUR

POPULATED AREA OF LOSS
UNPOPULATED AREA OF LOSS

POPULATED AREA OF LOSS

KINGSVILLE 1 MOA
ARRIVING VFR AIRCRAFT SHOULD CONTACT CORPUS APPROACH CONTROLLER WITHIN 20 NM ON 124.8-125.6

KTKY CURRENT CHANNEL 291C3
60 Dbu CONTOUR

AREA OF GAIN FROM NEW CHANNEL 293C2, TAFT, TEXAS

PROPOSED CHANNEL 293C2
60 Dbu CONTOUR

KINGSVILLE 2 MOA

ALERT AREA A-6328
CONCENTRATED STUDENT JET TRAINING

A-6328 excludes airspace within CORPUS CHRISTI INTL Class C.

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CERTIFICATE OF SERVICE

I, Pamela Presbury, an employee in the law offices of Davis Wright Tremaine, LLP, do hereby certify that a copy of the foregoing "Comments of Pacific Broadcasting of Missouri, LLC" was sent on September 7, 1999, by hand delivery, to the following:

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Pamela Presbury